

FILED

**IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION**

2005 NOV 30 PM 3:54

IN RE:)	U.S. BANKRUPTCY COURT
BRENDA GAYLE THREATT,)	AUGUSTA, GA
Debtor)	SAMUEL L. KAY, CLERK
)		
ESTATE OF BRODERICK BRIAN LANE,)	
)		
Movant)	
)		
v.)	
)		
BRENDA GAYLE THREATT,)	
)		
Respondent)	

OBJECTION TO CONFIRMATION

COMES NOW, the Estate of Broderick Brian Lane, and files this objection to confirmation in the above-captioned Chapter 13 case, showing as follows:

1.

The Debtor filed the instant Chapter 13 case on May 31, 2005. The Debtor failed to list the Movant as a creditor in the instant Chapter 13 case, and therefore the Movant never obtained proper notice of the Chapter 13 case filing.

2.

On or about November 16, 2004, the Debtor had filed a previous bankruptcy case under Chapter 7 of the United States Bankruptcy Code, Case No. 04-14150. In that Chapter 7 case, the Debtor listed the claim of the Estate of Broderick Brian Lane as a secured claim in the amount of \$50,000.00.

3.

On February 22, 2005, the Movant filed an Adversary Proceeding in the Debtor's Chapter 7 case to determine the dischargeability of debt owed by the Debtor to the Movant pursuant to 11

U.S.C. §523(a)(2)(4) and (6). A true and accurate copy of the Complaint is attached hereto as Exhibit "A" and is hereby incorporated by this reference.

4.

The Debtor failed to file a timely answer to the adversary proceeding, and the Movant obtained a default judgment. Thereafter, the Debtor filed a motion to reopen the default, which motion was granted by this Court. The parties thereafter engaged in discovery until the filing of the instant Chapter 13 case, whereafter all proceedings were automatically stayed pursuant to 11 U.S.C. §362.

5.

The Movant filed a claim in the instant case in the amount of \$50,000.00, which claim is secured by the real and personal property of the Debtor. The Debtor has filed an objection to the proof of claim, which objection is scheduled for hearing on the date of continued confirmation in this case.

6.

The Debtor filed the instant Chapter 13 case at the same time her previous Chapter 7 case was open and active. Furthermore, the Debtor obviously incurred additional debt subsequent to the discharge in the Chapter 7 case, as evidenced by the claims filed in the instant Chapter 13 case.

7.

The Debtor filed the instant Chapter 13 case in bad faith, and confirmation should therefore be denied.

WHEREFORE, the Movant respectfully requests that the Court deny confirmation in the instant case, and grant such other and further relief as is just and proper.

Respectfully submitted this 3rd day of November, 2005.


TODD BOUDREAUX
Attorney for Movant
Georgia State Bar No. 070023

SHEPARD, PLUNKETT, HAMILTON,
BOUDREAUX & TISDALE, LLP
207 N. Belair Road
Evans, GA 30809
(706)869-1334

CERTIFICATE OF SERVICE

This is to certify that a copy of the **OBJECTION TO CONFIRMATION** was served upon the following parties by depositing said copy in the United States mail with adequate postage affixed, for the safe and proper delivery, addressed as follows:

Angela Williams Seymour
P.O. Box 211003
Augusta, GA 30917
VIA FACSIMILE (706)868-8009

Barnee C. Baxter
Chapter 13 Trustee
P.O. Box 2127
Augusta, GA 30903

Brenda M. Threatt
345 Alex Lane
Augusta, GA 30909

This 29 day of November, 2005.


TODD BOUDREAUX
Attorney for Movant
Georgia State Bar No. 070023

SHEPARD, PLUNKETT, HAMILTON,
BOUDREAUX & TISDALE, LLP
207 N. Belair Road
Evans, GA 30809
(706)869-1334

FILED

IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION

2005 FEB 22 AM 9:19

U.S. BANKRUPTCY COURT
AUGUSTA, GA

)
IN RE:) CHAPTER 7
BRENDA GAYLE THREATT,) CASE NO. 04-14150-JSD
Debtor)

ESTATE OF BRODERICK BRIAN LANE,)
)
Plaintiff) ADVERSARY PROCEEDING
v.) NO. _____
BRENDA GAYLE THREATT,)
)
Defendant)

COMPLAINT TO DETERMINE DISCHARGEABILITY OF DEBT

COMES NOW, the Plaintiff in the above-captioned adversary proceeding, and files this
Complaint to determine the dischargeability of debts, showing as follows:

1.

The Debtor filed the instant Chapter 7 case on November 16, 2004. This Adversary
Proceeding is a core proceeding within this Court's subject matter jurisdiction.

2.

The Defendant is subject to the jurisdiction of this Court, and venue is proper in the United
States Bankruptcy Court for the Southern District of Georgia, Augusta Division.

3.

Concurrently with the filing of the instant Chapter 7 case, the Defendant filed Schedule D
listing the Plaintiff's claim against the Debtor in the amount of \$50,000.00. Schedule D indicates
that this claim is secured to the extent of the Debtor's interest in furniture, appliances, electronics
and other personal property valued at \$5,000.00.



4.

The Plaintiff's claim against the Debtor was liquidated and a lien established pursuant to a Complaint for Recognition and Enforcement of a Foreign Judgment filed in the Superior Court of Richmond County, State of Georgia on July 13, 2001, Civil Action File No. 2001-RCCV-566 ("Superior Court Action"), a true and accurate copy of which is attached hereto as Exhibit "A" and is hereby incorporated by this reference.

5.

In the Superior Court Action, the Plaintiff obtained against the Defendant an Order directing the Plaintiff to set aside \$75,000.00 of funds held in a brokerage account with I.N.G., known as Golden Select #C022102-OX (hereinafter "Gold Select Account"). A true and accurate copy of the Order is attached hereto as Exhibit "B", and is hereby incorporated by this reference.

6.

In Schedule B, the Defendant listed an interest in an I.N.G. annuity valued at \$7,000.00, and an IRA account valued at \$1,000.00.

7.

At the §341 meeting of creditors, the Defendant admitted that, under the advice of her I.N.G. broker, with I.N.G., she withdrew funds from the Golden Select Account to avoid the order of the Superior Court to preserve said funds.

8.

The Defendant's actions willfully dissipated the funds held in the Golden Select Account, thereby creating a debt to the Plaintiff for money obtained by false pretenses, false representation, or actual fraud. This debt owed to the Plaintiff is non-dischargeable pursuant to 11 U.S.C. §523(2)(A).

9.

The Defendant's actions also constitute fraud or defalcation while acting in a fiduciary capacity, embezzlement or larceny, making the obligation to the Plaintiff non-dischargeable pursuant to 11 U.S.C. §523(a)(4).

10.

The Defendant's willful and malicious actions caused damages to the Plaintiff and property of the Plaintiff, making the obligation non-dischargeable pursuant to 11 U.S.C. §523(a)(6).

WHEREFORE, the Plaintiff respectfully requests that the Court enter judgment against the Defendant in the amount of \$50,000.00, enter an order determining that said judgment is non-dischargeable pursuant to 11 U.S.C. §523(a)(2)(4) and (6), and grant such other and further relief as is just and proper.

Respectfully submitted this 2nd day of February, 2005.



TODD BOUDREAU
Attorney for Plaintiff
Georgia State Bar No. 070023

SHEPARD, PLUNKETT, HAMILTON,
BOUDREAU & TISDALE, LLP
207 N. Belair Road
Evans, GA 30809
(706)869-1334

IN THE SUPERIOR COURT OF RICHMOND COUNTY
FOR THE STATE OF GEORGIA

ESTATE OF BRODERICK BRIAN LANE,)
ET AL,)
Plaintiffs,)
VS.)
BRENDA GAYLE THREATT,)
Defendant.)

CIVIL ACTION NO.
2001 RCCV 566

COMPLAINT FOR RECOGNITION
AND ENFORCEMENT OF FOREIGN JUDGMENT

Plaintiff files this Complaint and shows the following:

1. Defendant, Brenda Gayle Threatt, resides at 345 Alex Lane, Augusta, Georgia 30909, and is subject to the jurisdiction of this Court.
2. On April 3, 2001, the Court of Common Pleas of York County, Pennsylvania issued a final judgment, a duly authenticated copy of which is attached hereto as Exhibit "A".
3. Said judgment provided that Plaintiff recover of Defendant the principal sum of \$50,000.00.
4. Said judgment is final and conclusive and is enforceable in the State of Georgia.



5. Defendant has refused and continues to refuse to pay Plaintiff the amount recoverable under said foreign judgment and defendant owes to Plaintiff the sum of \$50,000.00.

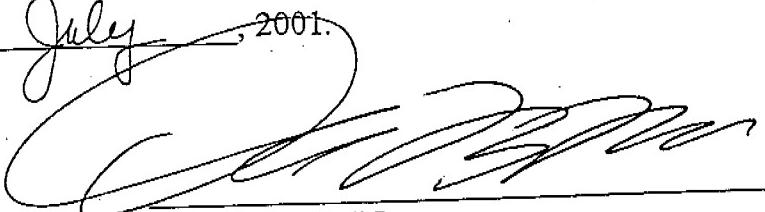
6. Said foreign judgment is entitled to recognition and enforcement under the Georgia Foreign Money-Judgments Recognition Act.

WHEREFORE, Plaintiff demands the following:

A. That the foreign judgment attached hereto as Exhibit "A" be recognized and enforced under the provisions of the Georgia Foreign Money-Judgments Act and that said foreign judgment be made the judgment of this Court.

B. That Plaintiff have judgment against Defendant for the sum of \$50,000.00, plus interest and the costs of this action.

This 12th day of July, 2001.



DAVID B. BELL
STATE BAR NO. 047750
Attorney for Plaintiff

OF COUNSEL:

BELL & BELL ASSOCIATES
P. O. Box 1011
Augusta, Georgia 30903-1011
706-724-1882

Commonwealth of Pennsylvania

County of York.

I, STACIA N GATES Prothonotary of
the Court of Common Pleas in and for said County, do hereby
certify that the foregoing is a full, true and correct copy of the
whole record of the case therein stated, wherein
ESTATE OF BRODERICK BRIAN LANE & JAMES &
JANET LANE VINTING ET AL LANE & JAMES &
Plaintiff, and
BRENDA GAYLE THREATT

Defendant, as the same remains of record before the said Court of No. 2001 NO 00864-01

In Testimony whereof, I have hereunto set my hand and affixed the seal of said Court this
8TH day of JUNE 2001

Stacia N. Gates
Prothonotary,

I, JOHN H CHRONISTER, President Judge of the Nineteenth Judicial District,
composed of the County of York, in the Commonwealth of Pennsylvania, do certify that
STACIA N GATES, by whom the annexed record, certificate
and attestation were made and given, and who in his own proper hand writing, thereunto subscribed his
name and affixed the seal of the Court of Common Pleas of said County was at the time of so doing and
now is Prothonotary, in and for said County of York, in the Commonwealth of Pennsylvania, duly
commissioned and qualified, to all of whose acts as such full faith and credit are and ought to be given as
well in Courts of judicature as elsewhere, and that the said record, certificate and attestation are in due
form of law, and made by the proper officer.

John H. Chronister
President Judge

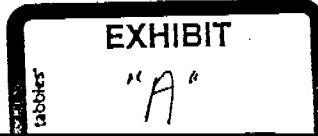
Commonwealth of Pennsylvania

County of York.

I, STACIA N GATES, Prothonotary of the Court of Common Pleas in and for
the said County, do certify that the Honorable JOHN H CHRONISTER,
by whom the foregoing attestation was made, and who the Court of Common Pleas, Orphans' Court and
Court of Quarter Sessions of the Peace in and for said County, duly commissioned and qualified, to all
whose acts as such full faith and credit are and ought to be given, as well in Courts of judicature as
elsewhere.

In witness whereof, I have hereunto set my hand and
affixed the seal of said Court, this 8TH
day of JUNE, A. D. 2001

Stacia N. Gates
Prothonotary.



In The Court of Common Pleas of York County, Pennsylvania

ESTATE OF BRODERICK BRIAN
LANE
JAMES E LANE SR & JANET N
LANE VS
BRENDA GAYLE THREATT

Case Number 2001 NO 00864 01
Case Type Conf. of Judgement

Certification of Docket Entries and Judgments

I, the undersigned Prothonotary of the Court of Common Pleas of York County, Pennsylvania, do hereby certify that the following is a full, true and correct copy of the docket entries in the above captioned case.

APPEARANCES

D 001	THREATT, BRENDA GAYLE 345 ALEX LANE AUGUSTA, GA	30904	UNREPRESENTED
P 001	ESTATE OF BRODERICK BRIAN LANE 652 MULBERRY ST YORK, PA	17403	KATHERMAN, J ROBERT
P 002	LANE, JAMES E SR 652 MULBERRY ST YORK, PA	17403	KATHERMAN, J ROBERT
P 003	LANE, JANET N 652 MULBERRY ST YORK, PA	17403	KATHERMAN, J ROBERT

DOCKET ENTRIES

2001/04/03	JUDGMENT ENTERED BY CONFESSION ON NOTE DATED 2/8/01 IN AMT OF \$50,000.00	27.50
2001/04/03	AFFIDAVIT RE: NON-CONSUMER CREDIT TRANSACTION	0.00
2001/04/03	CERTIFICATE OF RESIDENCE	0.00

DOCKET ENTRIES

2001/04/03 NOTICE GIVEN RE: PA RCP 236 W/DOCUMENTS FILED 0.00

THIS RECORD: 15.75

TOTAL AMT.: 43.25

JUDGMENT INDEX

<u>FOR PARTY</u>	<u>AGAINST PARTY</u>	<u>AMOUNT</u>	<u>DATE</u>	<u>STAT</u>
ESTATE OF BRODERICK BRIAN	THREATT, BRENDA GAYLE	50000.00	2001/04/03	A
LANE, JAMES E SR	THREATT, BRENDA GAYLE	50000.00	2001/04/03	A
LANE, JANET N	THREATT, BRENDA GAYLE	50000.00	2001/04/03	A

I further certify that judgment was entered in favor of ESTATE OF BRODERICK BRIAN
LANE & JAMES & JANET LANE and against BRENDA GAYLE THREATT
on the 3 day of APRIL AD XX 2001
in said case in the amount of \$50,000.00

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the
Court, on the 8 day of JUNE AD XX 2001



Stacia N Satis
Prothonotary
By Angela Rombough
Deputy

IN THE SUPERIOR COURT OF RICHMOND COUNTY

FOR THE STATE OF GEORGIA

CLERK OF SUPERIOR
AND JUVENILE COURT
COURT

02 JAN 23 AM 11:38

ELAINE D. JOHNSON, CLERK
RICHMOND COUNTY, GA.

ESTATE OF BRODERICK BRIAN LANE,)
ET AL,)
Plaintiffs,)
VS.) CIVIL ACTION
BRENDA GAYLE THREATT,) NO. 2001-RCCV-566
Defendant.)

O R D E R

On Monday, December 10, 2001, the Defendant brought on her Motion to Stay Proceedings in the captioned case. Both sides were represented by counsel and made arguments to the Court. In response to said Motion, it is hereby ORDERED, DECREED and ADJUDGED as follows:

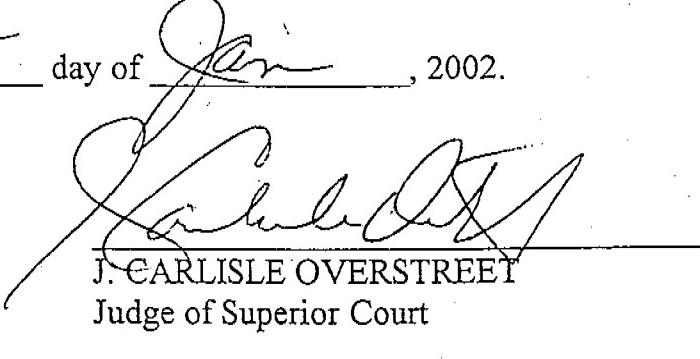
The Defendant's Motion to Enjoin and Stay the Proceedings is hereby granted, as follows, and the Defendant, Brenda Gayle Threatt, is hereby enjoined from disposing of or selling certain of her assets, as follows.

Defendant has represented to the Court that she has a brokerage account with I.N.G. known as Golden Select #C022102-OX. The Defendant is hereby ordered and directed to set aside \$75,000.00 of said funds from said account by transferring \$75,000.00 to a liquid, cash asset fund under the same I.N.G. annuity account. I.N.G.

shall not dispose of or distribute any of said \$75,000.00, or interest collected thereon, until further order of this Court.

Furthermore, the Plaintiffs shall not be authorized to levy upon any of the Defendant's assets, or otherwise attempt to enforce the Pennsylvania Judgment, until further order of the Court. After the matter in Pennsylvania is resolved, the parties hereto shall be authorized to come back before the Court so that the Plaintiffs can petition the Court to levy upon the assets of the Defendant, or that the Defendant can petition the Court for relief from this injunction and obtain authority to dispose of the assets subject to this Order.

SO ORDERED, this 15 day of Jan, 2002.


J. CARLISLE OVERSTREET
Judge of Superior Court

PRESENTED BY:


DAVID B. BELL
P. O. Box 1011
Augusta, Georgia 30903-1011
(706)724-1882

IN THE SUPERIOR COURT OF RICHMOND COUNTY
FOR THE STATE OF GEORGIA

ESTATE OF BRODERICK BRIAN LANE,)
ET AL,)
Plaintiffs,)
VS.) CIVIL ACTION
BRENDA GAYLE THREATT,) NO. 2001-RCCV-566
Defendant.)

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been served on opposing counsel by placing a copy of same in the United States mail with appropriate postage affixed thereon and being addressed as follows:

Mr. Kevin S. Little
Suite 220 - Lafayette Center
945 Broad Street
Augusta, GA 30901

This 22nd day of January, 2002.



DAVID B. BELL
STATE BAR NO. 047750
Attorney for Plaintiffs

OF COUNSEL:

BELL & BELL ASSOCIATES
P. O. Box 1011
Augusta, Georgia 30903-1011
(706)724-1882